Since my conversation with you this morning, the subject of it has unceasingly occupied my thoughts.

You seemed so struck with what I told you were the olemn convictions of Mr. Calhoun but a few days previous to his death, as they appeared to my mind, that I chierfully comply with your request to re-member and place upon paper my recollections of those days. Before I proceed, however, I must state a few facts to which your own recollections must bear witness. You know that, with a few intermissions, I was with Mr. Calhoun for a constant period of eleven uninterrupted months. I joined him at his home in Fort Hill early in the year 1849, and separated from him when his body left Washington for the South after the close of his earthly career in 1850. My stay at Fort Hill is fraught with the most pleasant and thrilling reminiscences of the great dead. My main occupation from day to day, for several menths, was in writing the work—
"A Disquisition on Government, and a Discourse on the Constitution and Government of the United States," which has recently been published by D. Appleton & Co., of this city, as volume one of the works of Calhoun, edited by my personal friend, Richard K. Crabbe, one of the ablest men in the South, and one of those that Mr. Cafhoun honored with his confidence for many years. Several hours each day I was engaged with him upon this interesting work. It was during this period that I received a request from you to this effect:— "Nobody knows anything about Mr. Calhoun, where he lives, how he lives, what he says and does at home. The American people know all about the habits of Webster and Clay, but nothing about Mr. Calhoun. I would like to know all about those things, and get his opinion on a variety of subjects. The public know nothing about him except when he is heard from in some great State paper, or in a Senate Of course I showed this letter to Mr. Cal houn, and it led to a very singular result. Mr. Cal houn hesitated a moment and then said, in his pleasant vein, " There is but little known about my place or home habits. Mr. Bennett has been a very sincere and devoted friend of the South; I would be

"But, Mr. Calhoun, it is quite erident that Mr. Bennett wants to have something about Fort Hill and you that he can publish."

"Weil, you may write him a letter to publish, but sign some name to it that will not let people suppose you wrote it." I did write, and sent you the letter which appeared in the HERALD, headed "A Visitto Fort Hill," and signed "A Traveller." But I have to tell you some things still more singular, and which were unknown to you until now. Carrying out your wishes, I would often, while with him in his little sudy, take pen and paper, and, after calling his attention to a particular subject, would write it

little study, take pen and paper, and, after calling his attention to a particular subject, would write it in the form of an editorial. He would read the article in manuscript, and hand it back to me, with the remark, "Those are my ideas. You have them in a very exact and concise form." Those articles I enclosed to you without remark, and if you refer to files of the Herald, your leader on Friday, July 27, 1849, headed "The European News," was really Mr. Calhoun's, as well as many other editorials that afterwards appeared in the Herald-mail has "Position of the North and South," "Objects of the Administration," "Acteon and his Hounds." "Office-seeking and its Mission—What is to be Done about It." "Manufactures of the North." When the Herald reached Fort Hill he of course remarked them. On one occasion he said to me, "Has Mr. Bennett an idea how these articles originate?"

"Not the slightest," was my truthful reply. "He probably supposes I talk with you about matters and things in general, and that these conversations had suggested the articles." About that time you received from me a great many, private letters, giving you Mr. Calhoun's views about men and measures. I read him those letters, and before I sent the first one, be made me go up stairs and add a posteript which, as near as I can recollect, was as follows:—"Tell Mr. Bennett that my private opinions about men and matters are not to be used by him in any way publicly while I am slive, after I am dead he make them pathe." The words made an impression upon my mind and I wrote you as he desired. I was a faite startled about a year afterwards, when seated in the roun he died, his body in the metallic case near me, to find in a copy of the Heral To of the day previous, which was handed me by his son, large extracts from these identical letters attached. He was sead, but a great many simple minded people give me the credit of being the author of some of those tremendous sentences contained in those letters and extracts. But I have not yet done with this pref my leaving New York, at Mr. Cathoun's written request to go to him in the South, an authorized person asked me while away to write some letters about the South for the Times in London. I thought nothing more of the matter until I had been at Fort Hill a month or more. Mr. Cathoun and myself were in a wagon, coming from the village of Pendleton, when I mentioned the circumstance. "Why don't you do it?" was his sudden comment.

"Well, why should I? I don't know who would pay me for my trouble."

"Pay you?" was his rather sarcastic hint. "Pay why it would give you an opportunity of laying before the world the real position of the South—the real advantage that Europe would possess in a firect trade with us, and the london Times would poslish what you write." he continued.

South—the real advantage that Europe would possess in a flirect trade with us, and the London Tomes would publish what you write," he continued.

"Unquestionably they would. The party in New York was authorized to get me to write them."

"Then do you do it at once. Why even your friend Mr. Bensett dare not publish, in New York, the probable future of the South unconnected with the North, as I see it now, and as all will see it within twenty years." Every day I wrote on a series of letters. I wrote on a half sheet of foolscap turned down—and half I wrote, and every night he read them and made corrections opposite. When I sometimes would hesitate at what to me appeared such novel ideas as direct intercourse between Europe and the South, I have seen him shake his head gloomily and as if speaking to himself—"I will all come so eventually. I see it. Corruption, unjust and impartial legislation of a northern majority; the slow, sure and steady increase of the liberty feeling in the North, will eventually open the eyes of the South, and then hey will see I was right. The existence of the South will depend upon a separation, and then the South will reach her true position."

The rough draft of these letters was finished, and I hold them yet. I had no time to copy them before we went to Washington, and once only ware they alinded to in the sick room. 'Keep them carefully,' said Mr. C. "you will find use for them at some future day." He knew that I frequently made notes of conversations, with him. He used to make me read them to him, and on one occasion, as if seeing into the future, he said to me:—"Be sure that you perfectly comprehend my idea, when you take a note of it, and if you ware sion, as if sceing into the fature, he said to me:—"Be sure that you perfectly comprehend my idea, when you take a note of it, and if you have any doubt about it, ask me, and never publish any thing about me that you are not perfectly clear in your own mind that you understand me." Since his death these words have come back vividity to my mind, and I have religiously adhered to them. I now come to the time when we both reached Washington. come to the time when we both reached Washington, and from personal intercourse which you yourself have witnessed, you can safely vouch that the impression I shall give of his own mind, I had the opportunity of ascertaining as no one cless had, or could possibly have had. But a day before he died he told me that he would give a world could he have but one hour of strength in the United States Senate, so clear was his vision into the nurure. What he did say or think I wrote, and much that he would have written was known to me only, owing to circumstances consume the state of the state of the same that the world have written as the same that the would have written as the same that the would have written the same that the s

think I wrote, and much that he would have written was known to me only, owing to circumstances controlled by the sick and dying scene of his life.

It was about the 15th of February, 1850, that it became evident to his own mind that it was doubtful whether he should deliver a speech in the Scenate, and it was then he determined to write it. You remember that I went to Richmond with Gen. Taylor to see him lay the corner stone of the Monument to Washington. On my return early on Sunday morning. I met a messanger who was hunting for me. Washington. On my return early on Sunday morning, I met a messenger who was hunting for me, who stated that Mr. Calhoun was very anxious to have me come up home as soon as I got ashore from the boat. When I resolved the room of Mr. Calhoun, he told me that he did not feel as well, and wanted to commence that very day with the speech. He did commence dictating it that evening; I sat on one side of the table, and he on the other. He commenced and I waste will have believed from the one side of the table, and he on the other. He commenced, and I wrote, "I have believed, from the first, that the agitation—here he stopped, and rising from his chair, said, "This wont do, I must imagine that the Senators are around me." He walked across the room once or twice, and then came back to the table; I noticed that his eyes were closed; and then he commenced—"I have. Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measures, end in dismoion;" and continued dietating for nearly an hoor, and the was dictating that spech to me, he would cough so severely for a period of a quature or hall an hour, that I feared sometimes he would strangle. Yet when visiters called he seemed to control these spasms. It surprised me so that I once called his attention to it. He smiled and said, "A man that cannot control his body as well as his mind is not fit to live." I psed to send to him all mind in pressed by his comments, that I almost my mind impressed by his comments, that I almost my mind impressed by his comments, that I almost my mind impressed by his comments, that I almost my mind impressed by his comments, that I almost

the papers every day, and so engrossed was his mind upon the great topic before the country, that he felt anxious to have his attention directed to other subjects. I have read poetry, prose and stories to him when we were alone, at his request, for this special purpose, but frequently it would be of no use; his mind would go back to the critical institutions in which he beheved the interests of the South were perilled. I could not begin to remember the details of his conversation. At that time, and in his room, I wrote the "Patrick Henry" letters which appeared in the Herald, and read most of them to him before they were sent. In fact, they necessarily embodied some of his sentiments. How could it have been otherwise? But, above all details, I can remember that there was one all-pervading sentiment as to the utter and entire uselessness of compromise. He scouted the very word. He said the South had no compromise to offer, and that unless the constitution was amended by introducing into it new clauses to protect the South against the continual invasions of the North, there never could be peace and quiet between the two sections; that there would be year after year more and more nuncio agitations, and that it would be be better for the States peaceably to dissolve at once. People called, and he would talk with them or listen, and when they were gone, he would shake his head, and in reference to a successful settlement of the pending California controversy, would say, "It is all useless. How forward with the deepest forebodings to the future. The South—the men of the South—don't see their real position. There is nothing gained by a temporary policy. Something must be done to reach the root of the evil. I see it, and the South will see it in a few years. I have no hope from the generosity or justice of the North. There are some good and true men there, but in a few years they all be absorbed in the one all pervading sentiment which is gaining ground rapidly. In ten years the entire root of the evil. I see it, and the South will see it in a few years. I have no hope from the generosity or justice of the North. There are some good and true men there, but in a few years they will be absorbed in the one all pervading sentiment which is gaining ground rapidly. In ten years the entire North will be abelitonized. The love of plunder and power for the sake of office will absorb all justice and right between the sections. This same spirit will grow in the South. Leaders in the South will go hand in glove with the North for office and plunder. Even in my own State there will be found men as eager for spoils and office from the general government as from any other State. I feel gloomy when I look at the future. My path might have been a very easy one had I so chosen, but I have pursued the right over a rugged road. It may be but a few years before the South will be trampled upon, invaded, enslaved, and destroyed by unconstitutional exaction and oppression. Then the South will rise to one man. Then she will failly understand me."

There are sentiments that filled his mind until he died. Could he have lived only four years, he would have seen with sorrow these political leaders in his own State as great hickspittles to the throne of Presidential power as in any other. He would have seen a a President in power, wrapped in a free soil robe, one of the monsters who put addeat the Wilmot provise. He would have seen in power as Prime Minister Marcy, a man he once held up to soom in the following language on the floor of the Senate:—

I then undertock to show that it would increase, veally increase, the power of the government if they chose to exercise this patrices for political purpose. That they would so me is we had ample proof in the past conduct of the administration, and in the principles which had been openly arowed by its friends. A former Senator from New York high in the outfidence of the party, (Siv Marcy, and now chief magistrate of that State, had openly arowed in his place on this floor that

pleased to oblige him in any way. You may write him some private letters about me if you choose to do

Northern majority when once abolitionism gets full strength, as it must and will in that section."

By Dear Sir—I have received and reay your speech with the deep st interest; it traces the precent crist to its source, and points out the means of and inglit come queness with perfect clearness, without deviation and with cut passion. It appeals to our reason, and asts only justice. It will not, perhaps, be so much prized as some others; but hereafter, when its prelictions shall be full file—and I forware they will be ere long, an ast the spirit of familiain is effectually checked in its carver—y u will be queled as one who forstold the danger and plated cut the only means by a sich it could be avoided that proposed to publish a pamplate on the same subject, but eagain fine no publisher. The literary as well as the political press it equally entersided in the North. If you will parmit me I will suggest to you a doubt of the pointy as well as efficiency of the guarantees you propose for the inture safety of the South which will be equally denourced with the continuition as "violation of the laws of first and in the rights of nature," by the farantic. They will be but but if fax in their first furnace. I mention this because it would seem that several of the representatives for the South are not prepared to no with you to that extent and, as I formedly stated, I think to maintainly of the last consequence to the South." It astocishes me to see the distinction of paries still kept up in that quarter, and that when such monstrous interests are at stake, instead of emberking to a must not one both come, and of the most the most caperous inseets that ever crawled about in the political atmosphere, for he is had in an the order of the most despited by pris in the political atmosphere, for he is had in an the only possible way he can acquire distinction, is by becoming the tool of greater soundrels than himself. Some years so, after diagracing the Bate of New Yora as chief magistrate, he rounded that he wery bottom of th fierignifeance and otlivion and was dropped by his our

shelt magistrate, he found his level in the lowest depths of leviguitesnee and oblition and was drapped by his own party. But the mid has been lately stirred at the very bottom of the pool, and he who went down a slimp tadpole has come up a full grown builf frog more noisy and impudent than ever. This is very often the case among a here, when nothing is more common than to see a awindling rogue, after his orimes have become a little rusted by time, academly become an object of popular face for executive pitronage. The position taken and the principles asserted by this pettilogging rogue in his speech would digrace any man—but himself.

I begin to fear that it will not be long before we of the North become the tools of the desc idants of the optimises of early liberty, with no conception of riginous toleration, but the most numbering intolerance. The despotism of the parson is using the place of that of kings, and the grown and the petticeat have conspired to usurp the breeches. Our friendem is in great danger of being macrificed to texts of Scripture and franktist format. The twelve tables are becoming our law, and we shall be obliged to study the commances of Leviticus.

I fear, the, you will be tempted to tresposs too much on your strength in a cefending yourself from your forested. Let me beg of you to bear in mind that at your segment in the probability the future will require your exertions, as well as the present. I rejoine to mear the favorable opinion of your paysician. Don't take yourcelf to reply. I am, dear sir, yours, very troly.

It will be difficult for me to forget a scene in Mr. Calhoun's sick chamber one morning. But I must write, and if my memory was not perfectly clear upon the subject I would not write at all.

to tread on tender ground in what I am about to write, and if my memory was not perfectly clear upon the subject I would not write at all.

For many years provious to the great statesman's death—probably from the commencement of the abolition excitement, every printed document, book, he veraper or engraving got up by the abolition party, was sent to Mr. Calbona. I suppose in many cases it was done to annoy him—in other cases it was done by friends, to let him see what was doing. A creat many of these papers, he would read. For cases it was done to annoy him—in other cases it was done by friends, to let him see what was done of a great many of these papers he would read. For two months previous to his death, up to the evening before he died, I used to read to him more or less every day. When he was able to sit up he would sometimes select a paper from his mail, and, after glancing over it, would select a particular article, and, with his finger upon it, would hand me the paper and say, in his emphatic way, "read that." Of course I read it to him. About a fertnight before he died, a New York paper was sent to him marked. The paper was the New York Independent. I called his attention to the marked article. He was laying upon the bed, for he was more unwell than usual. "Read it," said Mr. Calhoun. The article was headed, "Shall we Compromise?"

"It is a religious abolition paper," I remarked. "Bead the article." I read about forty lines, when I heard a movement in the bed which attracted my attention, and I turned my head to look at him, hinking he wanted something. Those who visited him during the last winter he spen in Washington, will well remember the large sized room he occupied, and in which he died. It had been used after the burning of the capitol in 1815, for the United States Senate Chamber. Mr. Calhoun's bed was in one corner, and I used to do my writing upon a little pine lable in the middle of the room, which, by the way, was his favorite writing place. When I turned my face toward the bed, I found him sitting up, his eyes flashing, and he was evidently excited "Ommence again and read the first part. What paper is that?"

"The Independent."

"The Independent."

remembered the article word for word. That copy got mislaid, but a thousand times since have I determined to get it, and publish such portions as struck Mr. Calhoun most forcibly, but I never did so, until a few days ago, when I met Mr. Benedict, the publisher, and told him I should feel very much obliged if he would let me look over his file of the fudependent for the months of February and March 1850. He compiled, and the moment my eyes rested upon the 21st of February number, I saw the article, and asked Mr. Benedict who wrote that article, "Shall we compromise?"

asked Mr. Benedict who wrote that article, "Basic we compromise?"

"Henry Ward Beecher," was the reply.

"Could you give me that number?"

"Certainly, if you wish it particularly."

I took this opportunity of telling Mr. Benedict that I was very much obliged for his kindness. The article will explain my anxiety to get it, and now I shall give you extracts from it, for it occupied three columns of the Independent:—

article will explain my anxiety to get it, and now I shall give you extracts from it, for it occupied three columns of the Independent:—

Mr. Clay's compromise has been violently resisted by the South, and but colaly looked upon in the North. It is not that both sides are infaturated, and refuse a reasonable sectrement. But the skill of Mr. Clay has evidently not touched the seat of disease. He either has not perceived, or has not hought it expedient to meet the real issue now before the people of the United States. The sirugale going on is a struggle whose depths lis in the organization of society, in the North and South respectively; whose sames were planted in the constitution. There are two incompatible and mutually destructive principles wrought tracted and mutually destructive principles wrought tracted and in the constitution. There are two incompatible and mutually destructive principles wrought tracted and another lack. The sirugale wrought tracted to the wilderness. To attempt to settle a radical opposition of policy, by casing off the rub here and there, leaving the the great princiles in full vigor, it as if one should has great princiles in full vigor, it as if one should have greated princiles in full vigor, it as if one should have great princiles in full vigor, it as if one should have greated princiles and such as a state of the hostile ships that come ornehing together, instead of patting the helm shout and going another tack. Slavery is right, and slavery shall give a slavery shall live, slavery shall discipled and slavery shall not extend. Are these conflicts to be settled by any mode of parcelling out certain territories? Now the battle rages at one point; by and by it will rage at another. These oppugnant elements, slavery and liberly inherent in our political system, and making our whole wisdome of public legislation on any of the greatest questions crosseyed and contradictry, these sin entures are seaking each other's life. O er the other mut die.

It is no sportive jourt upon which our

which provision was made—first in the organization of scolety, and then in the structure of the constitution. No harvest ever answered more closely to the wants of the husbandman's seed, than do our difficulties to the original

which prevision was made-first in the organization of society, and then in the structure of the constitution. No harvest ever answered more closely to the wants of the husbandman's seed, than do our difficulties to the original sewing.

Now, coes any man doubt that here are the real, vital, distinguishing elements of two radically different governments—an aristocracy and a democracy? Does any one believe it possible that there respective isodencies should be confined, in the respective fields, to civil affairs? Will they not determine the family institution, the whole usages of society, public opinion, yea the whole and very nature of communities? Can the agriculture of slaves and slavery and the agriculture of freemen be the same? Can the commercial interests be the same? the political economy and the political? Can statesman bed in such schools have common sympathies? that the North and South have many wants and many sympathies in common, is as true as that all men, the most opposite, oppressor and oppressed, deceiver and dupe, have great wants in cummon. But in their foundation ficas, their political decrines, their State policies, the conceptions of public measures, they are not only different, but, for the most part, opposite and oppugnant. States, so essentially different, would find harmony rather in separate existence, than in federation. Yet our Union is composed of these oppositions.

When the crastitution was in birth, these things were in the seed. Yet, even then, the repellencies were such that a common constitution was an opted only by compromise. Now, if the compromises of the constitution in the matter of slavery were adopted, in the expectation that alsvery would soon be eradicated by the superior vitality of interty, we can understand the wisdom of the intention at least. But if it was designed that one in strument should inclose the sphirt of two theories of government to totally adverse, it was the most extraordinary bindness, the most anoralisms felly which honest mea were ever entitle with

ter of the genzieman who wrote, "Snall we Compromise?"

Of course, while Mr. Calhoan agreed perfectly as to the "seat of the disease," and that "these elements were seeking each other's life," and "that the collision was not on men but of prin riples and political institutions," he drew a very different sonelission from the one drawn by Mr. Beecher, that the North would triumph. Mr. Calhoan believed that the different political institutions of the North and South could not be compremised for any length of time. But I will assert still more.

I should be unfauthful to my own impressions received long previously, see, up to the very evening before he died, if I was not to say that he believed all such hopes—folly. He believed that one or the other of the great astagonistical elements in the North or South must die. He knew it would not die in the South. He saw no evidence of its dying in the North, and even then and there, in the room where he was dying, with the death sweat gathering fast upen his paie brow, he looked forward with an almost prophetic vision through long years of the future, and he saw aggression upon aggression being made by the antagonists of Southern inherests, until the South herself should see and feel that her existence could only be sustained by a searation from a the South berself should see and feel that her exist

made by the antagonists of Southern interests, until the South herself should see and feet that her existence could only be sustained by a separation from a powerful opponent, with which she could not cope, while in the Union. His fears were that the South would wait until it was "too lave."

Papers and corrupt persons always misrepresent my opinions, and place a wrong construction apon even my speeches. They dread them, for they see that I cannot be deceived with the chaff. They know that I fully appreciate, and don't soare the mass of politicians, who have a total lack of real patriotism. All that I state is with the severest regard to simple facts. Mr. Calloun was a seer and a prophet. He looked to the future. Other mea looked only at the present. Previous to his death, his mind was mire and more convinced of the uncertainty of the Union, no matter what was done in reference to California or the Fugitive Slave law. He did not consider laws about them, however lavorable to the South, as of any advantage "with the aboilton sentiments gaining ground so rapidity in the Northern States. Of what use, ten years hence, will be any laws respecting slave property? They will be a dead letter—never practical. The South is unfortune-ly led by too many men, who do not, cannot appreciate her so-cial position." "Diametrically opposed at are both sections, what good can come from a Union when a corrupt majority are ciercally trampling down a minority." The South may recover and see her real position in time, if she is not bought up by the patringe of the general government; and the North, too, are blind. They don't see, that if the South are forced to a separation to save themselves, grass would grow in the streets of New York. The slave States are the producing States, the source of the great wealth of the Union. The experts of the save States are the producing States, the source of the great wealth of the Union.

forced to a separation to save themselves, grass would grow in the streets of New York. The slave States are the producing states, the source of the great wealth of the Union. The exports of the slave States—the cotton, tobecco, rice, sugar, & 1—compared with Northern exports, are as four to one. These exports, amounting to hundreds of millions, are returned in Northern ports, and the revenue of the country appears to come from Northern ports, when it is not so. It is defice from the return of the Southern exports. There is a lie on the face of the export and import statistics of the country. That is not all—while the South thus countributes to the wealth of the North by the loan of her capital, sharing in reality the great burthen of the revenue taxation, the gavern ment equally upiest, legislates away this extraordinary accumulation of revenue upon the free States. Very few dollars are appropriated to the South, from which is derived the great revenue. How long can this unjust and unequal state of things continue? It ought not to be allowed a moment, but it will probably continue until the North, overgrown and arrogant, will feel that she is powerful, and commence a direct attack upon the institutions of the South, and then the South will understand my views, and appreciate my time, warnings.

I could go on, Mr. Bennett, with these reminiscences. If I find time I may do so. The allusions in your editoriats have called forth this letter, and from it you can easily imagine where the noble and pure hearted champion of the South would have stood, had his life been spared to these days of rottenness, corruption, and abolitionism in the Capitol, with a Wilmot-proviso contriver as President, and spoileman Marcy as principal distributor of general government plunder. Yours respectfully,

Ion Road on the St. Lawbence,—We were pleased to observe, on Saturday, a large force of men engaged in levelling the ice and opening a fine winter road from opposite the Custom House Square direct to the Railroad Station at St. Lambert. We learn that the ice is more than usually sound and good and that the road will be open for winter carriages early to-day. The managers of the Champlain and St. Lawrence Railroad are not backward in affording all the accommodation possible to travellers. The crossing of the St. Lawrence will be but a pleasent drive of some eight or ten minutes.—Montreal Gazette. Jan 16.

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considerably in value since the sale.

OPINION OF THE COURT.

James Amory, the testator, died in February.
1835. By the seventh clause of his will he appointed his wife Martha, during her widowhood, his executrix, and Barters & Cross, his executors and trustees of his estate real and personal. The testator then proceeds to declare, "notwithstanding anything herein before contained, I do devise the same in trust to them for the purposes of this will, and the better to effect my purposes in said will." He authorized them to lease his real estate for a limited term, and to erect buildings, pay all liens, and if it shall be necessary to sell so much of the real estate as may be necessary for that purpose, and also to receive the rents, profits, in some, and dividends of his state, real and personal, and then pay them over to his wife, so long as she remains his widow, to be disposed of by her as directed in the previous clauses of the will, and after her death or marriage, then to pay over the personal estate and the net annual rents and profits, &c., to and among the devisees and legatees in the manner therein before directed.

The testator, by this provision, creates a trust fund,

or the will, and after her death or marriage, then to pay over the personal estate and the net annual rents and profits, &c., to and among the devisees and legatees in the manner therein before directed.

The testator, by this provision, creates a trust fund, consisting of all his real and personal estate. The trust may continue during the life of Mrs. Amory, as the trustees are directed to pay over to her, as the beneficiary, the rents and profits during her life or until her marriage. The trust, however, is to continue estate and the net smual rents, &c., to and among the devi ces and legatees, as therein before provided. By the third clause of the will, the personally is divided into equal shares and given to such of the testator's children as survive him, and to the issue of those who die before him, the issue respectively taking the share of their deceased parent. The trust as to the personal estate, of course, ceases with the life of Mrs. Amory.

By the fourth clause, the net annual income of the real estate is given, one share to each surviving child, to be received by such child during his or her natural life. As the trustees, by the seventh clause, are to pay over the net annual income, as directed by the fourth clause, the trust as to the real estate must continue during the life of the children surviving the testator. This is the second life. But the irust does not then cease, because it is provided by the same clause, not only "that each child shall receive his or her shared ring his or her natural life," but that "atterwirds the same shall be received by his or her shared ring his or her natural life," but that "atterwirds the same shall be received by his or her wife or husband, he gives the fee of the share by which such child received the profits to the children of such child absolutely in fee, as tenanes in common."

As the wife or husband may remain unmarried, the trust may continue for the life of those persons, which is the third life in the crder prescribed by the testator in the sum of the

But this hypothesis repudiates the seventh clause altogether.

When this clause was penned, the testator was fully aware that he had in form devised the rents and profits to his wife, children and their surviving wives and husbands, but he declares that notwithstanding his deposition he devises the whole of his earste in trust to the trustees designated, through whom the widow and other devisees are to receive the rents and profits previously alloited to them. They are to take from the trustees, and through the trust.

There is no discrepancy between the different

widow and other devisees are to receive the rents and profits previously alloted to them. They are to take from the trustees, and through the trust.

There is no discrepancy between the different parts of the will. By the prior provision of this instrument the widow and the other beneficiaries were to receive for their use the rents for their lives respectively. The mode by which this object was to be effected was the trust, and in the clause establishing it the testator distinctly refers to all the devisees as the castan que trusts, who are to receive his bounty in the manner and by the instrumentality there designated. This was his leading purpose, and to its accomplishment every other part of the will whether apparently in conflict with it or not, is made subservient. To reject a clause thus excilist and emphatic would be in effect to make a will, instead of constituing the one executed by the testator. The conclusion, I think, is inevitable, from the plain language of the testator, that he intended to create a trust as to his real estate, and we are bound to presume that be designed to establish a legal trust, with all its incidents. One of these was, that the whole estate, legal and equitable, in the land should be vested in the trustees, and that the person for whose benefit the trust was created should take no estate in the lands, but might enforce the performance of the trust in equity. (I R S., 729, s. 60) This equitable right the testator intended to confer on the cestus que trusts, the widow included, and no other; and it by construction we can change that equity into a legal estate in the land, I see no reason why we might not designate a new beneficiary.

It is said that since the widow, as one of the trustees, was cutified to possession and the receipts of the rents and profits, she must be deemed to have a legal estate in threats, according to S. 47 of 1 R. S. 727. There are two answers to this suggestion:—First, that this section was not aimed at active, but passive trusts. (4 Paige, 404, 7 page

and it was their duty to preserve the property for the benefit of the beneficiaries whose interest accrued

the hencit of the beneficiaries whose interest accreed subsequent to those of Mrs. Amory.

In the second place, the estate established by the will was a joint tensory. Mrs. Amory had at law no interest in the land, or the reats and profits which were susceptable of division. Her separate conveyance would be a nullify; and she could confer on vegance to the interest of the service of the service of the service. were susceptable of division. Her separa's conveyance would be a nullity; and she could confer on no one the right of entry, or to collect the rents. If the effect of the 47th section was to enable her to convey a frechold estate for her life, she could by a conveyance, oust her co-trustees of possession, deprive them of the power to lease or sell the land, or to make improvements; in a word, she could, by her own act, abolish the trust, and the doctrine, if sound, would be equally applicable to every trust sanctioned by the 55th section, by which trustees were authorized to receive the profits of land, and apply them to the use of every person for life, or a shorter period. Again, an attempt is made in the argument submitted to us, to apply the rule prescribed by statute to future legal estates to this trust; and the trustees are supposed to hold one estate for the life of Mrs. Amory, a second, for the child surviving the testator, and a third, for his or her wife or hu-band. That since by the statute a remainder limited on three or more lives is void as to the excess beyond two lives in being at the death of the testator, so in this case the law will preserve the two first trust estates and avoid the third only. The answer to this suggestion has been anticipated. The testator created, or intended to create, a single estate in joint ten anny, which should vest in the trustees the whole estate in law and equity for all the purposes of his will. The quality of the estate would have been the same, whether the beneficiary was to receive the profits for ten years or two lives. Where the statute clothes the trustees with the entire estate, legal and equitable, there can be no remainder; and when the right of the cestair que trusts is defined and limited to the enforcement of the trust in equity, there is neither necessity nor room for a springing nee. In this care the trust is void, because it establishes a perpetuity which the law prohibits. The

all the rents, as where they were to be divided into shares, the number of which was unknown, both at the execution of the will and at the death of the tas

ator.

The judgment of the Supreme Court should be reersed, but under the circumstances, without costs.

Theatres and Exhibitions.

BOWERY THEATRE—The drama founded upon "Uncle Tom's Cabin" is to be played through this week, with the original cast, which has been heretofore noticed in this paper. The drama, as played at the Bowery, is a full resume of the main incidents of the book.

the book.

BROADWAY THEATRE.—The present is announced as the last week of "The Cataract of the Ganges." It is to be played on Monday, in conjunction with "The Hope of the Family." a drama by Stirling Coyne, first played at the Haymarket, London, on the 2d December. At the Broadway, the cast includes the names of Davidge, Fisk, Whiting, Lanergan, and Miss J., Gougenheim.

BUNDAY'S THRATE —The popular burletta "Paris and London" is to be played on Monday evening, also the last new sketch, called "Our Best Society." Mr. Burton and other popular artists are in the cast of these pieces. of these pieces.

NATIONAL THEATRE.—The "Hot Corn" and "Uncle Tom" dramas are still running at this house. They will be repeated every afternoon and evening during this week.

during this week.

Wallack's Theathe.—The bill for Monday includes the successful piece, "A Bachelor of Arts," and "A Pretty Piece of Business." Cumberland's comedy, "The Wheel of Fortune," is to be revived in great style on Tuesday evening.

Bannum's Museum.—A capital bill is offered at this house for Monday afternoon and evening. Gen. Tom Thumb will remain for a short time longer.

BROADWAY MUSEUM AND MENAGERIE.—This elegant resort continues to be highly popular. It will be open to morrow afternoon and evening. The Siamese Twins are to be seen without extra change.

BLITZ will remain at Stuyvesant Institute another week. The present opportunity of seeing his performances should not be neglegiced.

Christy's Minstrals offer a fine programme for Monday evening, including several entirely new songs and dances. The crowded houses at 472 Broadway prove that this band is as popular as ever.

and dances. The crowded houses at 472 Broadway prove that this band is as popular as ever.

M. NSTREL HALL.—At this establishment, No. 444 Broadway, Wood's Minstrels give a concert on Monday, with an entire change of programme. The entertainment is of a very popular character.

Chinese Hall is located at 539 Broadway, and is at present occupied by Buckley's Minstrels, who are highly popular. Their programme for Monday night sparkles with vocal and instrumental gems.

BOWERY AMPHITHEATRE.—The gallant officers and crew of the British ship Three Bells have accepted an invitation to witness the performances at the Amphitheatre on Monday, (to morrow) evening.

Letters have been received here from Paris, stating that Carl Eckert, the former conductor and director of Madame Henriette Sontag's operas and concerts, had accepted the place of first conductor of the Italian Opera in Vicana, to commence on the list of April. A similar place in Munich he had declined. He is at present in Paris, teaching the role of Valentine in the opera "Huguenots," to Sophia Cruvelli and Sig'a. Frezzolini.

Paul Julien has quite recovered from his late se-

Paul Julien has quite recovered from his late se vere illness, and is making preparations for a series of concerts to be given here in about two weeks. .

Max Maretzek intends to give a grand concert soon, if a suitable hall can be obtained. He resides at present with his amiable wife, quite retired at Staten Island.

Staten Island.

Jullien's grand concert at Newark, last night, was crowded to overflowing. Receipts, \$720. He plays to-night in Philadelphia.

Signor Salvi was arrested a few days ago in Charleston, S.C., (where the steamer Black Warrior stopped for repairs,) and had to pay the sum of \$275 he owed yet to the orchestra and chorus of the late Italian opera here, for services at his last benefit at Niblo's. at Niblo's.

at Niblo's.

The following artists are at present in New York unemployed:—Baroness de Berg, pianist; Madame Daustræm, the Swedish pr ma donna: Signor C. Badish, Signorina Costini, August Goekel, pianist, and Paul Julien. BREACH OF PROMISE AND SEDUCTION AT AL

Breach of Promise and Seduction at AtBany.—An interesting and rather an extraordinary
receie tock place at the Police office yesterday.
Towards noon, a young lady entered the office, followed by a middle aged man, and proceeded to the
bench with the apparent intent of making known
the object of her visit to Justice Cole. He being occupied in attenting to a criminal case, the officer in
attendance requested her to take a seat in the adjoining room, which she accepted. Scarcely had
she become seated, before a short, thick set man,
apparently a Jew. came in, and walked up to the
Justice, but finding that he was engaged, withdre w,
and seated himself on a bench. The magistrate,
having finished the trial of the case, left the bench
and went into the side room, where, after a short
conversation with the female, who, it appears, is a
Jewess, a warrant was issued, and placed in the
hands of officer Smith, who found but little difficulty
in serving it, as his prisoner was found to be the
Jew who had taken a seat on the bench. He was
accordingly invited to take a seat in the side room,
where Justice Cole politely informed him that he had
been brought in to answer to the charge of sedution and breach of promise. The Jewess was sworn,
who testified that, in the presence of her parents,
and two relatives, according to the Jewis custom, he
betrothed himself to her, which was followed by the
joining of hauds and a pledge of everlasting fidelity.
Since that time they had met together frequently,
and upon this pledge, and the promise of a speedy
marriage, he succeeded in accomplishing his desires
and her disgrace. Some time having elapsed since
the pledge was given, she urged him to name a day Since that time they had met together frequently, and upon this pledge, and the promise of a speedy marriage, he succeeded in accomplishing his desires and her disgrace. Some time having elapsed since the pledge was given, she urged him to name a day for the marriage, which he refused doing, pleading poverty as an excuse; and finding that he was reluctant and inclined to jilt her, she apprised her father of what had occurred, leaving it for him to say what course she ought to pursue.

On hearing of her disgrace and his refusal to marry her, they left home and went to the store of her betrayer, where they four d him. An interview took place, which was not of a character to heal the wounded feelings of a perent, but rather to enrage and mority; and en fineding that they could not effect the object of their visit, they came for juntice.

She related the occurrence in apparently an afflicted but pleasing manner. Upon the advice of his countel, the accused denied the whole transaction, when it was found necessary to send for additional witnesses, which was accordingly done, when the fact of his promising to marry the girl was fully proved. His counsel finding that eithet his client had deceived him, or that he had been deceived in regard to the facts stated by the girl. took the back track, and adviced his client to offer marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few moments before not only denied the promise of marriage, and that he had but a few and promise of faut of bail. The Jewess is rather small in stature, dark complexion, a keen black eye, with a pleasing expression of countenance, probably not over 18 years of age. Some years ago her parents were quite poor, so much so that it became necessary for her to support ferred; which the succeeded in doing by going from house to house in selling oil. They are now in better circumstances, and she has for the past three or four years been kept at home, during which time the has grown up to woranhood, and by many may be now called a rather pretty Jewess.—Albany Journal, Jan. 19.

HURRICANE IN LERIOU COUNTY, PA.—The Allentown Register, of the 18th inst., says:—On Phursday last the weather became mild, and we were visited by a heavy shower, which continued throughout the day, accompanied by a strong southern wind, which at about six o'clock in the evening termitated in a perfect hurricane. A number of signs, fences, shutters, were blown away, and many windows broken. We hear, too that much damage was done by the storm in the country. The long rauge of cattle shedding at the Agricultural Fair ground was blown away, throwing the roofing some hundred feet into an adjoining field. The d-mage to the company may reach one hundred and fifty dollars. We also hear that the storm unroofed the tavern house of Mr. Israel Weeco, in Lower Macangy, and the stable o' Mr. Charles Mertz, in South Whitehall, and doing considerable damage to fences, &c.

SLAVE STFALING IN NEW BEDFORD.—We learn from the Tri Weckly Globe, printed in Portsmouth, Va., that reveral gentlemen from that town have been in New Bedford in pursuit of fugitive slaves, and that they were unsuccessful. Of this, says the New Bedford Mercury, we had before some rumor, but no particulars. The Globe charges the U.S. Deputy Mershal, in this city, with a dereliction of duty in the matter, in making it public in season to permit the fugitive to eccape. The Mercury says, the sifair created no excitement whatever, and no public demonstrations of any kind. In fact, the whole operation was so quietly conducted that recercely a dozen people in the city heard of it until several days after it was over.

The same spathy exists among operators that we have noticed for some time past. Buyers and seliers appear equally indifferent, and the result is a heavy, dull mar-ket. The effect of such a state of things is generally of a more unfavorable character than that realised. Prices have very seldom been sustained in the absence of spe-culators, and holders have been compelled to make con-cessions to attract purchasers. At the first board to-day Cumberland Coal declined % per cent; Erie Railroad, %; Harlem, %; Reading Railroad, %; Hudson River Railroad, %. Erie, Reading, and Cumberland formed the staple of ransactions to day, and we should judge that the bears transactions to day, and we should judge that the beam were the principal purchasers. It appears to us that prices generally are low ecough to induce purchases for future improvement. All that we require to give a great start to speculations in fancy stocks is decided favorable intelligence from the seat of hostilities in Europe. Nothing but the uncertainty and apprehension existing relative to the question at issue, in which all the nations of the old world are more or less involved, keep financing. ffairs on this side of the Atlantic so dull and depressed The receipts at the office of the Assistant Treasurer of his port to-day, were \$177,747 67; paid, \$28,753 69; ba.

MARKET

The same apathy exists among operators that we have

SATURDAY, Jan. 21-5 P. M.

lauce, \$3,580,557 41

The Atlantic and Ohio Mignetic Telegraph Company running from Philadelphia to Pitteburg, has made a dividend of fifty cents per share, payable at the office of the company in this city on demand.

The steamer Texas at New Orleans on the 12th inst. from Vera Cruz, brought \$107,990 in specie.

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Сомм	ERCE OF 1	NEW ORLE	ANS-V	Oct. Nov.	07 Exp 1853 1853	
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estwise	Novemb					\$2,651,307 \$005,809 1,644,478 2,207,419
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reign m	erchandi	e in for.	ressola	Nov.	1868 1858	\$23,564 8 504 10,723
	100			Deg.	1000	10,882

Total amount during the 4th quarter, 1858..\$15,909,900 Of this aggregate \$15,256,285 was in domestic produce, more than one half of which was experted in American

The appeared statement of the import trade of Halifax, for the nine months ending Sept. 30, 1852 and 1853, shows that the United States stands second on the list in amount :-

COMMERCE OF HALIFAX, N. S .- VALUE OF IMPORTS Commerce of Hallian, N. S. - Val. Countries. 1852.

Great Briwin. £747,676 18 7 B. N. A. Colonies. 112,474 17 0 United States. 163 700 10 8 British West Indies. 11,070 3 1 French West Indies. 95,214 6 7 Other countries. 23,682 10 0 1853, £235,771 15 6 127,008 5 0 160,348 4 11 5,263 0 11 148,114 1 8 9,609 5 6 £686,052 6 6 658 699 5 11 Tolal.....£653,699 5 11 ..£32,353 0 7 

ther countries have decreased, from the sister colonies there has been a large augmentation.

The value of dutiable goods imported into Montreal, during the year ending January 5, 1854, was £3,256,203, against £2,193,540 for the previous year, showing an increase of £1,062,663, equal to 48% per cent for the year

just closed. This is exclusive of free goods.

During the year 1852, the whole number of vessels visit

ing Mexican ports was 817, of which 435 were American, 108 English, 69 French, and 60 Spanish. The total number of passengers convayed to Mexico was 43,816; the whole number which left was 40,153.

whole number which left was 40,153.

The following gentlemen have been chosen Directors of
the Philadelphia, Wilmington and Baltimore Railroad
Company, for the ensuing year:—S. M. Felton, M. B.
Buckley, M. Robinson, Aubry H. Smith, C. I. Dupont, J.
A. Duncan, Jesse Lare, F. A. Curtis, Joseph C. Glipin, J.
C. Grocme, Thomas Kelso, J. I. Cohen, Jr., Columbus O.
Donnel, Enoch Pratt, and Thomas Donaldson. B. M. Felton, E. q., the past efficient and popular President of this read, still holds that office. The company are about to commence the new bridge across the Susquehanna at Ha-vre de Grace, which will increase the present facilities of this road, and leasen the time between the two cities n arly an hour.

Stock Exchange.

NATURDAY

### Stock Exchange.

| Satural | Sat

10 Little Miami RR. 107

\$1000 Erie Inc Bds. 97 % 100 she Cal Min. s4m 3
2500 Ill Cen RR Bds. 82% 1 Pacifit M S3 00. 50
100 she Cum Coal Co. 28% 10 Mich Cen RR. 99
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200 do. 500 26% 150 do. 107 76%
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100 Go. 500 4% 100 do. 100 77%
100 Gold Hill Mice. 3% 10 Little Miami RR. 107
100 Parker Veto. 6%

SATURDAY, Jan. 21-6 P. M. ASHIP.—There were 160 bhis. taken, at \$6 25 for pearls

ASHE.—There were 160 bhis taken, at \$5 25 for pearls and \$5 75 for pota, per 100 bhs.

Bernotters.—Flore was essentially unchanged. The fay's operations included 12,000 bbls, superano. No. 2: \$17.75 a \$7 87%; ordinary to choice State at \$3 a \$3 18%; mixed to fancy Wastern at \$3 00% a \$3 25; common to good Ohio at \$3 12% as \$25; fancy do. at \$5 25 a \$8 37%; extra Western at \$5 37%; a \$8 38; fancy do. at \$5 25 a \$8 37%; extra Western at \$5 37%; a \$8 38; fancy do. at \$2 25; and extra Generee at \$5 50 a \$9 75. Onnacian has not varied. Some 1,300 bbls. Southern brought \$3 26 a \$8 50 for mixed to straight; \$5 50 a \$5 02%; for faverite; and \$5 63%; a \$9 12%; for fancy, per bbl. Rye flour was rare and inactive. About 300 bbls. Jersey ourn meal changed hands at \$4 Wheat was held far above buyers limits, and for this reason was partially neglected. The day's business was enfired to 600 bushes inferior to choice Southern red at \$1 56 a \$2; and 1,600 Northern mixed on private terms. There save been soid 11,000 bushels raye at \$1 18 a \$1 10 from the railroad dept; \$1 11 a \$1 12 addition of this reason was partially neglected. The day's business was reflected to 600 bushels inferior to choice Southern red at \$1 56 a \$2; and 1,600 Northern mixed on private terms. There save been soid 11,000 bushels mixed barley realized 90c. Oats were unchanged. Corn was more in request; the day's transactions consisted of 21,000 bushes at \$5c a \$56 for damp Jersey; 90c. a 2%,6 far new Senthern white and yellow; 91c. for Southern was ad; 92c. a 92c. for ord Western doc; and 98c. for round yellow.

Coat was more sought for, at \$13 for Liverpool or el, per cheldforn; and \$7 for anthractic, from yard, per box. Some 10 balls are reported to day of 800 quintals dry cod, at \$3 12%; and 150 bbls pickled herring, at \$4. Other articles were reported to day of 800 quintals dry cod, at \$3 12%; and 150 bbls pickled herring, at \$4. Other articles were quiet; et firm.

Firm—Falses were reported to day of 800 quintals dry cod, at \$3 12%; and 150 bbls pickle

ten pausi terms.

HAT.—There were 750 bales river bought at 8736 a 90c, for shipment, and 95c. a \$1 for home use, per 100 lbs
IRON.—Socteh pig continued in good demand at \$40, usual time, per ton
MOLASSES.—There have been sold 200 bbls. New Orleans,